



**Federal Election Commission
Washington, DC 20463**

October 20, 2004

Jennifer Adams, Deputy Press Secretary
Lindsey Graham for Senate
P.O. Box 414
Westminster, SC 29693

Re: ADR 178
Lindsey Graham for Senate

Dear Ms. Adams:

Enclosed is the signed copy of the agreement resolving the referral initiated on June 28, 2004 with the Federal Election Commission ("FEC/Commission") against Lindsey Graham for Senate and Neil Byerley, Treasurer ("Respondents"). The agreement for ADR 178 (Audit 03-21) was approved by the Commission on October 18, 2004 – the effective date of the agreement.

Note that paragraph 9 of the agreement specifies that Respondents shall comply with the terms of this settlement within thirty (30) days of the effective date of the agreement. Please forward to this office, a statement confirming Respondents' compliance with the terms listed in paragraph 6 of the aforementioned agreement. The letter should note the dates on which Respondents satisfied each of the terms listed in paragraph 6.

As you are aware, the settlement agreement will be made part of the record that is released to the public. The Commission will also place on the record copies of the referral, correspondence exchanged between your office and this office prior to our entry into settlement negotiations and reports prepared for the Commission by this office to assist in its consideration of this matter. The Commission is obliged by Federal statute to place on the public record documents in closed enforcement and alternative dispute resolution cases; accordingly, copies of documents relative to this matter will be forwarded shortly to the FEC's Public Information Office.

This agreement resolves the matter that was initiated by the Commission pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities regarding violations of federal election campaign laws. I appreciate your

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assistance in effectively resolving this matter and bringing the case to a mutually acceptable conclusion.

Sincerely,

Lynn M. Fraser, Assistant Director
Alternative Dispute Resolution Office
202-694-1665

Enclosure: Agreement

24.19.025.4739



Federal Election Commission
Washington, DC 20463

Case Number ADR 178
Source Audit 03-21
Case Name: Lindsey Graham for Senate
and Neil Byerley, Treasurer

NEGOTIATED SETTLEMENT

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. Following review of the matter, and in an effort to promote compliance with the Federal Election Campaign Act of 1971, as amended, ("FECA") and resolve this matter, the Federal Election Commission ("Commission") entered into negotiations with Jennifer Adams, representing Lindsey Graham for Senate and Neil Byerley, Treasurer ("Respondents"). It is understood that this agreement will have no precedential value relative to any other matters coming before the Commission.

Negotiations between the Commission and Respondents addressed the issues raised in this referral. The parties agree to resolve the matter according to the following terms:

1. The Commission entered into this agreement as part of its responsibility for administering the FECA, and in an effort to promote compliance on the part of Respondents. The Commission's use of alternative dispute resolution procedures ("ADR") is authorized in "The Administrative Dispute Resolution Act of 1996," 5 U.S.C. § 572 and is an extension of 2 U.S.C. § 437g.
2. Respondents voluntarily enter into this agreement with the Commission.
3. An audit of Respondents' 2001-2002 campaign records found misstatements of financial activity in both years. In 2001, the receipts were overstated by \$97,041, and the disbursements were understated by \$67,064, resulting in an overstatement of the ending cash balance of \$164,105. In 2002, misstated activity included an understatement of receipts of \$61,486, and an overstatement of disbursements of \$18,799. When the overstatement of the ending cash balance from 2001 is factored in, it resulted in an overstatement of the ending cash balance of \$83,820 for the election cycle. In addition, the audit identified eight transfers totaling \$510,839 that were not accurately

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disclosed. Five of the eight transfers were from the candidate's House committee and the other three were from authorized joint fundraising committees. The errors included incorrectly naming the transferor, and inaccurately disclosing the amounts of four of the transfers.

4. The FECA requires full disclosure on reports filed with the Commission. Each report filed shall disclose the amount of cash on hand at the beginning of the reporting period, and, for an authorized committee of a candidate for Federal office, the total amount of all receipts, and all disbursements for the reporting period and for the election cycle. In addition, a committee must report the identification of each authorized committee which makes a transfer to the reporting committee, including a transfer from other authorized committees of the same candidate, regardless of amount. 2 U.S.C. §§ 434(b), and 11 C.F.R. §§ 104.3(a)-(b), 104.12.
5. Respondents acknowledge that an inadvertent violation of the FECA occurred, but contend that all the errors flowed from their misunderstanding of how to transfer funds from the candidate's House of Representatives campaign committee to his new Senate campaign committee. Respondents argued this situation is not likely to ever reoccur. In addition, Respondents contend they already detected some of the errors and were in the process of filing amended reports when they were notified of the audit. Respondents maintain they conferred with FEC staff on the transfers, but misunderstood the directions given to them. Respondents maintain they assisted the Audit staff and followed all recommendations. Pursuant to those recommendations, all reports requiring amendment were filed. In addition, Respondents stated they are in the process of hiring an experienced CPA firm to handle all financial and reporting obligations going forward.
6. Respondents, in an effort to avoid similar errors in the future, agree to: (a) appoint the committee's Finance Director to supervise FECA compliance; (b) develop a FECA compliance manual for reference by committee staff; and (c) pay a civil penalty of \$10,000.
7. Respondents agree that all information provided to resolve this matter is true and accurate to the best of their knowledge and that they sign this agreement under penalty of perjury pursuant to 28 U.S.C. § 1746.
8. The parties agree that if Respondents fail to comply with the terms of this settlement, the Commission may submit any unpaid civil penalty to the U.S. Treasury for collection or undertake civil action in the U.S. District Court for the District of Columbia to secure compliance.

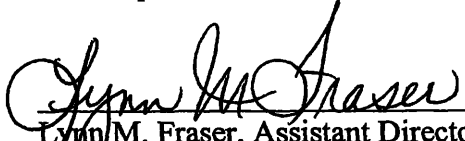
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9. This agreement shall become effective on the date signed by all parties and approved by the Commission. Respondents shall comply with the terms of the settlement within thirty (30) days from the effective date of this agreement.
10. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 178 (Audit 03-21), and effectively resolves this matter. No other statement, promise or agreement, either written or oral, made by either party, not included herein, shall be enforceable.

FOR THE COMMISSION:


Allan D. Silberman, Director
Alternative Dispute Resolution Office

By:


Lynn M. Fraser, Assistant Director
Alternative Dispute Resolution Office


Date Signed

FOR THE RESPONDENTS:


Jennifer Adams
Representing Lindsey Graham for Senate
and Neil Byerley, Treasurer


Date Signed

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